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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/907,182	08/06/1997	SHUNPEI YAMAZAKI	07977/023002	7978

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EXAMINER

DIAMOND, ALAN D

ART UNIT PAPER NUMBER

1753

DATE MAILED: 10/06/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

08/907,182

Applicant(s)

YAMAZAKI ET AL.

Examiner

Alan Diamond

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 September 2003.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 26-30, 32-55, 57-71, 73-76, 78, 79, 81-91, 93-99 and 103-107 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 26-30, 32-55, 57-71, 73-76, 78, 79, 81-91, 93-99 and 103-107 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☒ Certified copies of the priority documents have been received in Application No. 08/623,336.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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DETAILED ACTION

Comments

1. The 35 USC 112, second paragraph rejection of claim 105 has been overcome by Applicant's amendment thereof.
2. The obviousness-type double patenting rejections over the claims of U.S. Patents 5,961,743 and 6,461,943 have been overcome by Applicant's amendment of independent claims 81, 83-85, and 87-89 so as to require that the gettering material is introduced into a surface of the crystallized semiconductor film within a region of 0.1 to 0.2 μm in depth from the surface of the crystallized semiconductor film. The obviousness-type double patenting rejection of said claims over U.S. 6544826 has also been overcome by said amendment.

Double Patenting

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claims 26-30, 32-55, 57-71, 73-76, 78, 79, 81-91, 93-99, and 103-107 are provisionally rejected under the judicially created doctrine of obviousness-type double

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patenting as being unpatentable over all of the claims of copending Application No. 09/939,767. Although the conflicting claims are not identical, they are not patentably distinct from each other because the instantly claimed method is taught and suggested the method in the claims of said copending application.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

5. Claims 26-30, 32-55, 57-71, 73-76, 78, 79, 81-91, 93-99, and 103-107 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over all of the claims of copending Application No. 10/074,050. Although the conflicting claims are not identical, they are not patentably distinct from each other because the instantly claimed method is taught and suggested the method in the claims of said copending application.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

6. Claims 26-30, 32-55, 57-71, 73-76, 78, 79, 82, 86, 90, 91, 93-99, and 103-106 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-26 of U.S. Patent No. 6,544,826. Although the conflicting claims are not identical, they are not patentably distinct from each other because the instantly claimed method is taught and suggested the method in the claims of said copending application.

Response to Arguments

Applicant's arguments filed September 12, 2003 have been fully considered but they are not persuasive.

With respect to U.S. Patent 6,544,826 (the '826 patent), Applicant argues that independent claims 26, 34, 42, 51, 59, 67, 76, 82, and 68 have been amended to recite forming a gettering layer comprising phosphorus over an entire surface of the semiconductor film. However, this argument is not deemed to be persuasive because the application of the '826 patent's claimed solution containing phosphorus to the entire surface of the claimed semiconductor film is within the scope of the claims of said patent. In particular, as an example, note Figure 1D of said patent wherein a phosphorus layer (107) resulting from said solution covers the entire surface of the semiconductor layer (102). It is true in said Figure 1D that there is a mask (104) between some portions of the phosphorus layer (107) and the semiconductor (102). However, the presence of such a mask is not excluded by the instant claims.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alan Diamond whose telephone number is 703-308-0840. The examiner can normally be reached on Monday through Friday, 5:30 a.m. to 2:00 p.m. ET.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nam Nguyen can be reached on 703-308-3322. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.



Alan Diamond
Primary Examiner
Art Unit 1753

Alan Diamond
October 2, 2003